

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

Stephen Johnstone

v.

Civil No. 12-cv-00475-JL

United States Internal  
Revenue Service

**PROCEDURAL ORDER: BENCH TRIAL**

**Final hearing on the merits.**

An evidentiary hearing will be held **August 13, 2013 at 2:00 p.m.**

**Discovery:**

After the Preliminary Pretrial Conference, the parties have agreed to a 60-day discovery period (ending **June 11, 2013**) which will include an informal exchange of documents, but may also include (if necessary) interrogatories, document requests, and requests for admissions. No such requests may be served which would require a response on a date after June 11, 2013.

**Filings:**

On or before **July 9, 2013**, the parties shall jointly file:

- a **single** timeline setting forth all pertinent dates, times, and events, in whatever format the parties jointly choose (in other words, the parties need not comply with Local Rule 5.1(a) with respect to the timeline);
- a **single** Statement of Agreed Facts followed by a Statement of Disputed Facts. The disputed facts are not an invitation to advocacy. The parties should simply list facts they intend to establish at the hearing, or which they contend will not be established at the hearing.

On or before **July 23, 2013**, each party shall file:

- a witness list;
- an exhibit list; and
- proposed findings of fact and rulings of law, specifically tailored to each pleaded **claim, affirmative defense, counterclaim, and defense thereto (if applicable)**.<sup>1</sup>

Counsel shall confer (preferably in person, or else by telephone) in a good-faith effort to identify all areas of agreement and to make the statement of facts and timeline as comprehensive as possible, so that open court testimony can focus on matters truly in dispute. Counsel are expressly discouraged from simply "recycling" factual statements submitted during previous motion practice in this case.

Counsel shall confer before the hearing to identify all areas of agreement and disagreement as to the admissibility of each exhibit.

**SO ORDERED.**

  
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Joseph N. Laplante  
United States District Judge

Dated: April 9, 2013

cc: Dennis L. Morgan, II, Esq.  
Karen A. Smith, Esq.

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<sup>1</sup>The proposed findings and ruling are meant to function as your trial brief. Counsel may, but are not required to, file a separate trial brief.